

AMENDED IN ASSEMBLY AUGUST 14, 2014

AMENDED IN SENATE APRIL 3, 2014

**SENATE BILL**

**No. 1441**

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**Introduced by Senators Lara, Corbett, De León, Hill, Monning,  
Roth, Steinberg, and Torres  
(Coauthor: Senator Beall)  
(Coauthor: Assembly Member Garcia)**

February 21, 2014

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An act to amend Section 82015 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1441, as amended, Lara. Political Reform Act of 1974: contributions.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. "Contribution" is defined for purposes of the act as a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The definition does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less.

The act prohibits a lobbyist from making, and an elected state officer or candidate for elective state office from accepting, a contribution if

the lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

This bill would revise the definition of “contribution” to include a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, as specified. The bill would make these payments attributable to the lobbyist for purposes of the prohibition against a lobbyist making a contribution to specified candidates and elected officers.

The bill would also revise the definition of “contribution” to include a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm.

A violation of the act’s provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 82015 of the Government Code is~~
- 2     ~~amended to read:~~
- 3     ~~82015. (a) “Contribution” means a payment, a forgiveness of~~
- 4     ~~a loan, a payment of a loan by a third party, or an enforceable~~
- 5     ~~promise to make a payment, except to the extent that full and~~
- 6     ~~adequate consideration is received, unless it is clear from the~~
- 7     ~~surrounding circumstances that it is not made for political purposes.~~
- 8     ~~(b) (1) A payment made at the behest of a committee, as defined~~
- 9     ~~in subdivision (a) of Section 82013, is a contribution to the~~

1 committee, unless full and adequate consideration is received from  
2 the committee for making the payment.

3 (2) A payment made at the behest of a candidate is a contribution  
4 to the candidate, unless the criteria in either subparagraph (A) or  
5 (B) are satisfied:

6 (A) Full and adequate consideration is received from the  
7 candidate.

8 (B) It is clear from the surrounding circumstances that the  
9 payment was made for purposes unrelated to his or her candidacy  
10 for elective office. The following types of payments are presumed  
11 to be for purposes unrelated to a candidate's candidacy for elective  
12 office:

13 (i) A payment made principally for personal purposes, in which  
14 case it may be considered a gift under the provisions of Section  
15 82028. Payments that are otherwise subject to the limits of Section  
16 86203 are presumed to be principally for personal purposes.

17 (ii) A payment made by a state, local, or federal governmental  
18 agency or by a nonprofit organization that is exempt from taxation  
19 under Section 501(c)(3) of the Internal Revenue Code.

20 (iii) A payment not covered by clause (i), made principally for  
21 legislative, governmental, or charitable purposes, in which case it  
22 is neither a gift nor a contribution. However, payments of this type  
23 that are made at the behest of a candidate who is an elected officer  
24 shall be reported within 30 days following the date on which the  
25 payment or payments equal or exceed five thousand dollars  
26 (\$5,000) in the aggregate from the same source in the same  
27 calendar year in which they are made. The report shall be filed by  
28 the elected officer with the elected officer's agency and shall be  
29 a public record subject to inspection and copying pursuant to  
30 subdivision (a) of Section 81008. The report shall contain the  
31 following information: name of payor, address of payor, amount  
32 of the payment, date or dates the payment or payments were made,  
33 the name and address of the payee, a brief description of the goods  
34 or services provided or purchased, if any, and a description of the  
35 specific purpose or event for which the payment or payments were  
36 made. Once the five-thousand-dollar (\$5,000) aggregate threshold  
37 from a single source has been reached for a calendar year, all  
38 payments for the calendar year made by that source shall be  
39 disclosed within 30 days after the date the threshold was reached  
40 or the payment was made, whichever occurs later. Within 30 days

1 after receipt of the report, state agencies shall forward a copy of  
2 these reports to the Commission, and local agencies shall forward  
3 a copy of these reports to the officer with whom elected officers  
4 of that agency file their campaign statements.

5 (C) For purposes of subparagraph (B), a payment is made for  
6 purposes related to a candidate's candidacy for elective office if  
7 all or a portion of the payment is used for election-related activities.  
8 For purposes of this subparagraph, "election-related activities"  
9 shall include, but are not limited to, the following:

10 (i) Communications that contain express advocacy of the  
11 nomination or election of the candidate or the defeat of his or her  
12 opponent.

13 (ii) Communications that contain reference to the candidate's  
14 candidacy for elective office, the candidate's election campaign,  
15 or the candidate's or his or her opponent's qualifications for  
16 elective office.

17 (iii) Solicitation of contributions to the candidate or to third  
18 persons for use in support of the candidate or in opposition to his  
19 or her opponent.

20 (iv) Arranging, coordinating, developing, writing, distributing,  
21 preparing, or planning of any communication or activity described  
22 in clause (i), (ii), or (iii).

23 (v) Recruiting or coordinating campaign activities of campaign  
24 volunteers on behalf of the candidate.

25 (vi) Preparing campaign budgets.

26 (vii) Preparing campaign finance disclosure statements.

27 (viii) Communications directed to voters or potential voters as  
28 part of activities encouraging or assisting persons to vote if the  
29 communication contains express advocacy of the nomination or  
30 election of the candidate or the defeat of his or her opponent.

31 (D) A contribution made at the behest of a candidate for a  
32 different candidate or to a committee not controlled by the  
33 behesting candidate is not a contribution to the behesting candidate.

34 (3) A payment made at the behest of a member of the Public  
35 Utilities Commission, made principally for legislative,  
36 governmental, or charitable purposes, is not a contribution.  
37 However, payments of this type shall be reported within 30 days  
38 following the date on which the payment or payments equal or  
39 exceed five thousand dollars (\$5,000) in the aggregate from the  
40 same source in the same calendar year in which they are made.

1 The report shall be filed by the member with the Public Utilities  
2 Commission and shall be a public record subject to inspection and  
3 copying pursuant to subdivision (a) of Section 81008. The report  
4 shall contain the following information: name of payor, address  
5 of payor, amount of the payment, date or dates the payment or  
6 payments were made, the name and address of the payee, a brief  
7 description of the goods or services provided or purchased, if any,  
8 and a description of the specific purpose or event for which the  
9 payment or payments were made. Once the five-thousand-dollar  
10 (\$5,000) aggregate threshold from a single source has been reached  
11 for a calendar year, all payments for the calendar year made by  
12 that source shall be disclosed within 30 days after the date the  
13 threshold was reached or the payment was made, whichever occurs  
14 later. Within 30 days after receipt of the report, the Public Utilities  
15 Commission shall forward a copy of these reports to the Fair  
16 Political Practices Commission.

17 (e) “Contribution” includes the purchase of tickets for events  
18 such as dinners, luncheons, rallies, and similar fundraising events;  
19 the candidate’s own money or property used on behalf of his or  
20 her candidacy, other than personal funds of the candidate used to  
21 pay either a filing fee for a declaration of candidacy or a candidate  
22 statement prepared pursuant to Section 13307 of the Elections  
23 Code; the granting of discounts or rebates not extended to the  
24 public generally or the granting of discounts or rebates by television  
25 and radio stations and newspapers not extended on an equal basis  
26 to all candidates for the same office; and the payment of  
27 compensation by any person for the personal services or expenses  
28 of any other person if the services are rendered or expenses incurred  
29 on behalf of a candidate or committee without payment of full and  
30 adequate consideration.

31 (d) “Contribution” further includes any transfer of anything of  
32 value received by a committee from another committee, unless  
33 full and adequate consideration is received.

34 (e) “Contribution” does not include amounts received pursuant  
35 to an enforceable promise to the extent those amounts have been  
36 previously reported as a contribution. However, the fact that those  
37 amounts have been received shall be indicated in the appropriate  
38 campaign statement.

39 (f) (1) Except as provided in paragraph (2) or (3), “contribution”  
40 does not include a payment made by an occupant of a home or

1 office for costs related to any meeting or fundraising event held  
2 in the occupant's home or office if the costs for the meeting or  
3 fundraising event are five hundred dollars (\$500) or less.

4 (2) "Contribution" includes a payment made by a lobbyist or a  
5 cohabitant of a lobbyist for costs related to a fundraising event  
6 held at the home of the lobbyist, including the value of the use of  
7 the home as a fundraising event venue. A payment described in  
8 this paragraph shall be attributable to the lobbyist for purposes of  
9 Section 85702.

10 (3) "Contribution" includes a payment made by a lobbying firm  
11 for costs related to a fundraising event held at the office of the  
12 lobbying firm, including the value of the use of the office as a  
13 fundraising event venue.

14 (g) Notwithstanding the foregoing definition of "contribution,"  
15 the term does not include volunteer personal services or payments  
16 made by any individual for his or her own travel expenses if the  
17 payments are made voluntarily without any understanding or  
18 agreement that they shall be, directly or indirectly, repaid to him  
19 or her.

20 (h) "Contribution" further includes the payment of public  
21 moneys by a state or local governmental agency for a  
22 communication to the public that satisfies both of the following:

23 (1) The communication expressly advocates the election or  
24 defeat of a clearly identified candidate or the qualification, passage,  
25 or defeat of a clearly identified measure, or, taken as a whole and  
26 in context, unambiguously urges a particular result in an election.

27 (2) The communication is made at the behest of the affected  
28 candidate or committee.

29 *SECTION 1. Section 82015 of the Government Code is*  
30 *amended to read:*

31 82015. (a) "Contribution" means a payment, a forgiveness of  
32 a loan, a payment of a loan by a third party, or an enforceable  
33 promise to make a payment except to the extent that full and  
34 adequate consideration is received, unless it is clear from the  
35 surrounding circumstances that it is not made for political purposes.

36 (b) (1) A payment made at the behest of a committee, as defined  
37 in subdivision (a) of Section 82013, is a contribution to the  
38 committee unless full and adequate consideration is received from  
39 the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source ~~must~~ *shall* be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Fair Political Practices Commission, and local

1 agencies shall forward a copy of these reports to the officer with  
2 whom elected officers of that agency file their campaign  
3 statements.

4 (C) For purposes of subparagraph (B), a payment is made for  
5 purposes related to a candidate's candidacy for elective office if  
6 all or a portion of the payment is used for election-related activities.  
7 For purposes of this subparagraph, "election-related activities"  
8 shall include, but are not limited to, the following:

9 (i) Communications that contain express advocacy of the  
10 nomination or election of the candidate or the defeat of his or her  
11 opponent.

12 (ii) Communications that contain reference to the candidate's  
13 candidacy for elective office, the candidate's election campaign,  
14 or the candidate's or his or her opponent's qualifications for  
15 elective office.

16 (iii) Solicitation of contributions to the candidate or to third  
17 persons for use in support of the candidate or in opposition to his  
18 or her opponent.

19 (iv) Arranging, coordinating, developing, writing, distributing,  
20 preparing, or planning of any communication or activity described  
21 in clause (i), (ii), or (iii).

22 (v) Recruiting or coordinating campaign activities of campaign  
23 volunteers on behalf of the candidate.

24 (vi) Preparing campaign budgets.

25 (vii) Preparing campaign finance disclosure statements.

26 (viii) Communications directed to voters or potential voters as  
27 part of activities encouraging or assisting persons to vote if the  
28 communication contains express advocacy of the nomination or  
29 election of the candidate or the defeat of his or her opponent.

30 (D) A contribution made at the behest of a candidate for a  
31 different candidate or to a committee not controlled by the  
32 behesting candidate is not a contribution to the behesting candidate.

33 (3) A payment made at the behest of a member of the Public  
34 Utilities Commission, made principally for legislative,  
35 governmental, or charitable purposes, is not a contribution.  
36 However, payments of this type shall be reported within 30 days  
37 following the date on which the payment or payments equal or  
38 exceed five thousand dollars (\$5,000) in the aggregate from the  
39 same source in the same calendar year in which they are made.  
40 The report shall be filed by the member with the Public Utilities



Commission and shall be a public record subject to inspection and copying pursuant to subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source ~~must~~ *shall* be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, the Public Utilities Commission shall forward a copy of these reports to the Fair Political Practices Commission.

(c) “Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of his or her candidacy, other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) “Contribution” further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) “Contribution” does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f) ~~“Contribution”~~ *(1) Except as provided in paragraph (2) or (3), “contribution”* does not include a payment made by an occupant of a home or office for costs related to any meeting or

1 fundraising event held in the occupant's home or office if the costs  
2 for the meeting or fundraising event are five hundred dollars (\$500)  
3 or less.

4 (2) *"Contribution" includes a payment made by a lobbyist or*  
5 *a cohabitant of a lobbyist for costs related to a fundraising event*  
6 *held at the home of the lobbyist, including the value of the use of*  
7 *the home as a fundraising event venue. A payment described in*  
8 *this paragraph shall be attributable to the lobbyist for purposes*  
9 *of Section 85702.*

10 (3) *"Contribution" includes a payment made by a lobbying firm*  
11 *for costs related to a fundraising event held at the office of the*  
12 *lobbying firm, including the value of the use of the office as a*  
13 *fundraising event venue.*

14 (g) Notwithstanding the foregoing definition of "contribution,"  
15 the term does not include volunteer personal services or payments  
16 made by any individual for his or her own travel expenses if the  
17 payments are made voluntarily without any understanding or  
18 agreement that they shall be, directly or indirectly, repaid to him  
19 or her.

20 (h) "Contribution" further includes the payment of public  
21 moneys by a state or local governmental agency for a  
22 communication to the public that satisfies both of the following:

23 (1) The communication expressly advocates the election or  
24 defeat of a clearly identified candidate or the qualification, passage,  
25 or defeat of a clearly identified measure, or, taken as a whole and  
26 in context, unambiguously urges a particular result in an election.

27 (2) The communication is made at the behest of the affected  
28 candidate or committee.

29 (i) "Contribution" further includes a payment made by a person  
30 to a multipurpose organization as defined and described in Section  
31 84222.

32 SEC. 2. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within  
39 the meaning of Section 6 of Article XIII B of the California  
40 Constitution.

1     SEC. 3. The Legislature finds and declares that this bill furthers  
2 the purposes of the Political Reform Act of 1974 within the  
3 meaning of subdivision (a) of Section 81012 of the Government  
4 Code.

O